

LYNDON CITY COUNCIL  
REGULAR MEETING MINUTES OF  
March 6, 2017

The Lyndon City Council met in regular session on Monday, March 6, 2017, 7:20 p.m., at City Hall. (Meeting time delayed due to bad weather).

1. CALL TO ORDER: Mayor Morrison called the meeting to order.

- a) ROLL CALL: City Clerk called roll of the City Council. Mayor Morrison and members Bill Patterson, Doug Watson (7:35), Darin Schmitt, and Ryan Kuhn present.

City Staff present: Pat Walsh, City Attorney (7:43); Julie Stutzman, City Clerk; David Wilson, Maintenance Supervisor; and Darrel Manning Chief of Police/Zoning Administrator (7:50).

Others Present: Rick Enszt, Cooper, Malone and McClain; Eric Vogel and Zachery Peres, Kwikom Communications; and Darrel Finch, Council candidate.

2. ADOPTION OF MINUTES OF PREVIOUS MEETINGS:

- a) Schmitt made the motion to approve the regular meeting minutes of February 20, 2017 as written. Kuhn seconded, motion carried.

3. CONSENT AGENDA:

- a) Approval of Bills: Patterson made the motion to approve the bills as set forth. Schmitt seconded, motion carried.

4. PUBLIC COMMENTS: None.

5. CORRESPONDENCE TO COUNCIL:

- Pledge of Securities from Lyndon State Bank as of February 28, 2017.
- Public Wholesale Water Supply District #12 meeting minutes of February 15, 2017.

6. UNFINISHED BUSINESS:

- a) RICK ENSZ - COOPER, MALONE, MCCLAIN - TEMP FINANCING: Mr. Enszt provided Council with general information about obtaining temporary financing to purchase real estate for the wastewater project. He stated that KDHE provides interim financing, however, does not include the purchase of real estate. Mr. Enszt asked if the City received the approval for the obligation of funds from Rural Development and the City Clerk stated the City received a confirmation for the obligation of funds.

According to the KDHE contract, the loan would be for 20 years with a principle amount of \$100 for the first fourteen years. Mr. Enszt clarified that if the funding from Rural Development became unavailable, then KDHE would permanently finance the project.

Mr. Enszt stated his company is prepared to help the City obtain temporary financing for the real estate and the process has two major components. He stated when issuing conventional notes especially for a water system for a City or County, one question is if the note is secured with ad valorem taxes or revenues from the systems. Mr. Enszt stated back in 2013 the City passed Charter Ordinance #8 which exempts the City from provisions of K.S.A. 12-621 and states "The governing body of the City may operate and maintain sewers and disposal works for the collection and purification of the sewage of the city, or of any part thereof, including joint operation and maintenance of such facilities through interlocal cooperation with another city or cities. The costs and expenses of building the same, in whole or in part, may be borne by the city as a whole, and maybe paid out of the general revenue fund; or if the governing body determines, general obligation bonds of the City may be issued for such purpose."

He stated according to that statute, the City can't issue temporary notes and use ad valorem taxes without going to the Court of Tax Appeals. Mr. Enszt stated the City passed that charter ordinance in 2013, was signed by the Mayor, and questioned if there was any protest during the allotted 60 days. Council members Watson and Patterson confirmed there was no protest by residents at that time against Charter Ordinance #8.

Mr. Enszt stated that since there were no protests against that charter ordinance in obtaining temporary notes and using ad valorem tax, then the City can use the same process for this issuance. He also stated the temporary notes would include real estate and any other costs associated with acquisition, cost of bond issuance and underwriting fees to finalize the total bond amount. Mr. Enszt stated once they finalize the amount, they would purchase the notes from the City and deposit the funds into the City's bank account for the size of the bond issue to purchase the land.

Mr. Enszt inquired about the length of time the bonds would be outstanding and discussed anticipating when Rural Development will begin permanent financing when the project is completed. He discussed with the Council a length of 1-2 years and wanted to make sure that enough time allowed for completion plus additional time. Mr. Enszt reminded the Council that when that bond comes due, the City will write a check for the full amount of the bond plus interest and if the project is not near completion and Rural Development funds are not yet available, the City is responsible for the total amount due. He stated Council will need to consider if the bond is going to be callable at any time or after a certain length of time. Mr. Enszt stated notes that are callable can be paid off early or refunded at a lower rate and gave explained the different types. He stated that statutorily notes can only be issued for a maximum of four years.

The bond takes approximately 90 to 120 days to complete and stated it is possible for the money to be in the City's account between and July and August. Patterson asked if easement costs can be included in the amount requested and Mr. Enszt stated that it can be.

The City Attorney asked about fees and options and Mr. Enszt stated that due to the Frank Dodd Act he cannot give any further recommendations or advice until a contract is signed and certain aspects of the project are reviewed. Mr. Enszt asked about the amount of money the City may request and the City Attorney stated \$600,000 had been discussed. After further discussion about possible timelines and obtaining bond counsel services, it was consensus of the Council to have Mr. Enszt forward a contract to the City Attorney to review before approval. If and once the contract is approved, Mr. Enszt could then attend a council meeting and provide financing options and discuss the impact the temporary notes would have specific to the project.

- b) KWIKOM TOWER LEASE AGREEMENT: The City Attorney stated he reviewed the contract and had some items that Council would need to discuss before approval. The Mayor stated he spoke to several of the cities that have services provided by Kwikom and asked if the standpipes north of town can be considered as an option to install the needed equipment versus the water tower. Mr. Peres with Kwikom stated the water tower provides a better option due to being closer to the center of town for line of site. Mr. Vogel stated that due to existing equipment for the fire and sheriff departments already on the standpipes, it might cause conflict in space needed for proper installation. It was noted that the service area for line of site is 12 miles and non-line of site is about 12-15 miles.

The Mayor voiced his concerns on a tower in another city and some of the areas where the conduit was attached had rust issues. He stated the reason for choosing that tower is that it is similar to the tower the City currently has. The Mayor also stated there is currently no structure to house their equipment and Mr. Peres stated they would build an A-frame structure to house their equipment. Mr. Peres stated the tower in Yates Center is one tower that they inherited those problems with from another company and that would be not the process for equipment installation on the City's tower and would use stainless connectors with rubber boots in between if preferred.

The Maintenance Supervisor asked if the City would be responsible for providing the electric for the system and asked if the power would be pulled from the breaker box located on the north corner of the park. Mr. Peres stated that they would run 2" conduit according to the City's wishes and the system only uses 60-80 watts of power. The Maintenance Supervisor stated there is power that runs to the MicroCom box for the tower, however, would want to look into that more.

The services that would be provided to the City were discussed which includes a new phone system. The lease fee for the tower was discussed and a \$600 yearly fee will be considered. Patterson asked what the installation timeframe would be if the contract is approved and Mr. Peres stated within 90 days.

Kuhn asked about the contract duration and Mr. Peres stated they would prefer a five-year contract, however, a two-year contract is viable.

The City Attorney stated terms need to continue to be negotiated and stated on Item 4 of the contract the preference would be option two in regards to exclusivity

of tower space and keeping that open for the future. He also stated on Item 17c the entire first sentence be removed.

He stated other provisions that need added to the contract include the language about the installation requirements that were discussed to protect the tower as well as access by Kwikom for repairs. The Mayor stated the City needs to be notified when the equipment is being serviced and a City employee be dispatched to grant access when needed.

Watson made the motion to recess to executive session for 10 minutes for Attorney-Client privilege. Schmitt seconded, motion carried. Council reconvened with no binding action taken and provided clarification to Kwikom about language changes to the contract as discussed above. These include services for City facilities including both parks, a new phone system, installation requirements in regards to stainless steel and rubber mounting to prevent damage to tower, changes to Items 4 and 17c and are leaning towards the two-year contract with the \$600 yearly lease fee. Repainting of the water tower in the next couple of years was also discussed and to add language that Kwikom will comply with any request of the repainting crew when the time comes. The attorney for Kwikom will draft the proposed changes and send it to the City Attorney for review.

- c) RESOLUTION 2017-4 - CITY 1% SALES TAX: The City Attorney provided Council with Resolution 2017-4 for approval to put the City 1% sales tax question on the November 7, 2017 ballot. The current 1% sales tax will sunset in 2019. Patterson made the motion to approve and authorize the Mayor to sign the resolution. Watson seconded, motion carried. The City Clerk will take the resolution and certification of council seats up for re-election to the County Clerk tomorrow ahead of the August 1 deadline.
- d) KDHE LOAN INTEREST: The City Clerk stated she received a letter from KDHE regarding the interest on the loan. The City's options are to pay the interest on the loan as it comes due or capitalize the interest back into the outstanding loan balance. It was consensus of the Council to roll the interest into the outstanding loan balance and directed the City Clerk to notify KDHE.
- e) EMERGENCY SIREN: The Maintenance Supervisor provided Council with information on the two sirens located on the north and south ends of town and a map that shows the coverage area the sirens provide. The coverage area overlaps at the center of town for adequate coverage. The City Clerk stated that she and the Maintenance Supervisor contacted Bryce Romine with Emergency Management about grant funding to replace the siren and at this time there are no siren grants available. Due to the severe storms earlier, there were complaints by residents that they could not hear the sirens. Watson noted that outdoor warning systems are for people outdoors alerting them of ominous weather conditions and not for inside use. Residents inside their homes need to obtain a weather radio and/or tune in to their local weather station to keep informed.

The Maintenance Supervisor stated he has a call in to get information from CDL to get a quote on replacing the siren that is no longer operational. He stated the

current sirens only have two horns and rotate 360 degrees. He stated that upgrading to a four-horn system would cost as much as a new one. The Maintenance Supervisor also spoke to Emergency Management about making them directional without rotating them and he did not recommend it. Watson asked if they could alternate the way the sirens rotate so that one horn is pointing at town when the other is pointing to rural areas. The Maintenance Supervisor stated he did not think that would be an option as there are many variances, but stated one should be covering as the other rotates outward.

Morrison asked if the sirens are at the age that they need replaced and the Maintenance Supervisor stated they are at least seven years old.

Watson stated the City should help educate residents about outdoor warning systems and Council directed the City Clerk to find information about outdoor warning systems through the National Weather Service and post it to the City's Facebook as well as post flyers at City Hall, Post Office, etc.

The Maintenance Supervisor stated that KCPL is going to assist the City in removing the inoperable siren and entire structure.

## 7. NEW BUSINESS:

a) LETTER OF INTEREST FOR COUNCIL SEAT: The Council received a letter of interest from Darrel Finch. Mayor Morrison stated he would like to proceed with appointing Mr. Finch to the vacant council seat. Patterson made the motion to approve the Mayor's appointment. Schmitt seconded, motion carried. The City Clerk administered the oath office for the newly-appointed member.

b) POOL HIRING: The City Clerk stated that pool season is coming up soon and would like to get the pool manager and assistant manager on board to begin preparing for the 2017 season. Patterson made the motion to recess to executive session for 10 minutes for personnel with the City Attorney and City Clerk attending. Finch seconded, motion carried.

Council reconvened with Patterson making the motion to hire Lisa Reeser as pool manager for \$9.25 an hour. Watson seconded, motion carried.

Watson made the motion to hire Brenna Herdman as assistant pool manager for \$8.50 per hour. Schmitt seconded, motion carried.

c) SEWER ABATEMENTS: The City Clerk provided information for sewer abatements for Kate and William Covington and Darin and Nikki Schmitt. It was confirmed that the leaks certified by maintenance. After brief discussion, Watson made the motion to approve the sewer abatement for Kate and William Covington in the amount of \$12.91. Finch seconded, motion carried.

Watson made the motion to approve the sewer abatement for Darin and Nikki Schmitt in the amount of \$29.22. Finch seconded, motion carried with council member Schmitt abstaining.

8. STAFF REPORTS:

- a) POLICE: Council reviewed and briefly discussed the Officer's report.
- b) PLANNING AND ZONING: No meeting was held due to lack of quorum and having a hard time getting people to attend. It was noted that Deb Edwards has moved and that there are now two vacancies on that board. The City Clerk will advertise the vacancies to find people to fill these positions.
- c) PUBLIC WORKS: Council received a copy of the Maintenance Activity report.

The Maintenance Supervisor stated ball season is about to begin and he tested the lights for approximately 3 hours. He stated the magnetic switch on the inside was very hot and one of the on/off switches are broke. He asked if there has been any further discussion on the lights and the Mayor stated they are waiting for the new school superintendent. The Maintenance Supervisor stated he would have Current Electric come out and see what work on the electrical can be done. He stated the age of the lights and equipment; and the extra lighting added, the circuit may be overloaded. The first home game is April 13th.

The City Attorney stated as soon as the new school superintendent is on board, communication between the entities involved need to resume on the Jones Park Agreement and lighting issue.

The Maintenance Supervisor stated he has contacted Bryce Romine with the Fire Department to get assistance with a controlled burn on the new trail at the end of the month.

- d) CITY CLERK: Council received a copy of the Clerk's report and briefly discussed.

Tree Sales will begin on March 13th and deadline for sign up to get trees is April 14 by the end of the business day. Trees are \$10 for residents who live within the City of Lyndon. The Arbor Day Observation will be on Saturday, April 22 at 9 a.m. at City Hall.

Sent email to Peggy Clark on February 28, in regards to possible start date for work on the Bailey House. She has contacted Pishny and is waiting for their response. The project has to be completed by June 1, 2017 or a request for an extension may need to be made.

Submitted request for disbursement from KDHE in the amount of \$18,315.50 on February 28, 2017. This disbursement pays for the first bill with Terracon in the amount of \$5,133.00 for a portion of the geotechnical work, and BG Consultants in the amount of \$13,182.50 for the SSES and City engineering/project design.

Filing deadline for Council seats is June 1, 2017 by noon and the filing fee is \$20.00. A letter certifying the seats held by Watson, Schmitt and Kuhn are up for re-election will be sent to the County Clerk.

The City Clerk provided a copy of the donation request from Rhonda Moon for the Easter Egg Hunt. She stated she reviewed the minutes from last year around the same time and it stated the Council made a motion to authorize her to provide pool passes annually for the event.

9. COUNCIL/MAYOR COMMENTS AND REPORTS:

Patterson asked how many residents took shelter at City Hall during the storm and the City Clerk stated one. She stated in the past City Hall has been used as a storm shelter, however, it is not an officially designated place for residents to come. She stated in the past the building was opened only if a severe weather warning had been issued. The City Clerk asked if City Hall is an option for shelter, do we respond as such on Facebook when asked. After a brief discussion, it was consensus of the Council to have the Mayor, Council member Finch or the City Clerk be on standby to open City Hall for severe weather. The City Attorney stated the response should be that City Hall will open as quickly as feasible after a severe weather warning has been issued.

Watson briefly discussed funding opportunities to help with the cost of ball field lighting through the MLB Baseball Tomorrow Fund, KC Royals - Royalty Fields fund and to check with Musco Lighting about any other grant opportunities. The City Clerk stated she would get information on these funding opportunities and contact Garret about CDBG special facilities grants.

The Mayor thanked the Maintenance Supervisor for taking the time out of his scheduled to look at Kwikom equipment installation on towers in other cities.

10. EXECUTIVE SESSION: None.

11. ADJOURNMENT: Schmitt made the motion to adjourn to Monday, March 20, 2017, at 7:00 p.m. for regular meeting. Watson seconded, motion carried.

  
City Clerk